

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

HERTZ SCHRAM, PC, on behalf of
PSYCHOPATHIC RECORDS, INC., and
INSANE CLOWN POSSE, LLC,

Civil Action No.:

Plaintiffs,

v.

FEDERAL BUREAU OF
INVESTIGATION,
a Governmental Agency

Defendant.

HERTZ SCHRAM PC
Howard Hertz (P26653)
Elizabeth C. Thomson (P53579)
Attorneys for Plaintiffs
1760 South Telegraph Road, Suite300
Bloomfield Hills, MI 48302
(248) 335-5000
hhertz@hertzschram.com
lthomson@hertzschram.com

COMPLAINT FOR INJUNCTIVE RELIEF

Hertz Schram PC ("Hertz Schram"), by Howard Hertz and Elizabeth C. Thomson, and on behalf of Psychopathic Records, Inc. ("Psychopathic Records") and Insane Clown Posse LLC ("ICP") (hereinafter, Hertz Schram, Psychopathic Records and ICP may be collectively referred to as "Plaintiffs"), hereby bring this Complaint seeking Injunctive Relief against the Federal Bureau of Investigation ("FBI"), and allege as follows:

NATURE OF THE ACTION

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiffs by the FBI.

JURISDICTION AND VENUE

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B).

3. Additionally, this Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claims asserted herein arise under the laws of the United States.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1) and 5 U.S.C. § 552(a)(4)(B), because Defendant is an agency of the United States and Plaintiffs reside within the Eastern District of Michigan.

PARTIES

5. Hertz Schram is a Michigan professional corporation located in Oakland County within the Eastern District of Michigan.

6. Psychopathic Records is an independent record label and a Michigan corporation located in Oakland County within the Eastern District of Michigan.

7. ICP is a musical duo and a Michigan limited liability company located in Oakland County within the Eastern District of Michigan.

8. FBI is a Department of the Executive Branch of the United States Government. The FBI is an agency within the definitions provided by 5 U.S.C. § 551(1) and 5 U.S.C. § 552(f)(1).

FACTUAL ASSERTIONS

9. “Juggalo” or “Juggalos” are terms used to describe the fan base of the ICP and Psychopathic Records.

10. In 2011, the FBI published the *2011 National Gang Threat Assessment: Emerging Trends* (the "Report"), which classifies Juggalos, collectively, as a "gang".

11. By electronic mail dated August 24, 2012, Hertz Schram submitted a request for various documents from the FBI with respect to its classification of the Juggalos as a "gang" in the Report. **Exhibit 1.**

12. By electronic mail dated August 27, 2012, the FBI acknowledged receipt of Plaintiffs' FOIA request. **Exhibit 2.**

COUNT I:

**Violation of the Freedom of Information Act, 5 U.S.C. § 552
for Failure to Timely Respond to Request for Records**

13. To date, the FBI has not provided the records requested by Plaintiffs in their FOIA request, notwithstanding the FOIA's requirement for an agency response within twenty (20) working days, 5 U.S.C. § 552(a)(6)(A)(i).

14. Plaintiffs have constructively exhausted the applicable administrative remedies due to Plaintiffs' filing of a FOIA request pursuant to 5 U.S.C. § 522(a)(3), and the FBI's subsequent failure to respond to that FOIA request within the required time limit. 5 U.S.C. § 552(a)(6)(C)(i).

15. The FBI has wrongfully withheld or otherwise failed to timely respond to Plaintiffs' request for records.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. order the FBI to disclose the requested documents in their entireties and make copies available to Plaintiffs;

B. provide for expeditious proceedings in this action;

C. award Plaintiffs costs and attorney fees incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

D. grant such other relief as the Court may deem just and proper.

Respectfully submitted,

Hertz Schram PC

By: /s/ Howard Hertz
Howard Hertz (P26653)
Elizabeth C. Thomson (P53579)
Attorney for Plaintiffs
1760 S. Telegraph, Suite 300
Bloomfield Hills, MI 48302-0183
(248) 335-5000

Dated: September 25, 2012

LAW OFFICES HERTZ SCHRAM PC